

701—83.1(453A) Licenses. Before any person engages in the business of a distributor or subjobber of tobacco products, that person must obtain a tobacco distributor's or tobacco subjobber's license. If the person holds a valid cigarette permit of any kind, the license will be issued without cost if all other requirements for the license are met, but the license must still be obtained. A tobacco retailer is required to obtain a retail cigarette/tobacco permit.

83.1(1) *Distributor license.* Every person operating as a tobacco distributor, as defined in Iowa Code section 453A.42, must obtain a tobacco distributor's license. A tobacco distributor is any person:

- a. Engaging in selling tobacco products in this state who brings tobacco products or causes tobacco products to be brought into this state for the purpose of selling them in this state; or
- b. Making, manufacturing, or fabricating tobacco products in this state for sale in this state; or
- c. Selling tobacco products without this state who ships or transports tobacco products directly to retailers in this state to be sold by those retailers. In any distribution scheme whereby tobacco products are imported into this state for sale, there must be at least one distributor. The following examples shall illustrate the application of this rule:

EXAMPLE 1: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. manufacturer's plant, both are performing the functions of a distributor; Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state, and Retailer, Inc. is causing tobacco products to be brought into this state from without the state for the purpose of sale. If either the out-of-state manufacturer or the in-state retailer has a distributor's license, the other need not, but may, have a distributor's license.

EXAMPLE 2: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. Retailer's place of business, Manufacturer, Inc. is acting as a distributor and Retailer, Inc. is not. Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state. Retailer, Inc. is not causing tobacco products to be brought into this state from without the state.

The license is issued by the department at an annual cost of \$100 unless the distributor possesses any valid cigarette permit in which case the license shall be issued without cost. A separate application and fee payment, if applicable, must be submitted for each place of business from which distributor activities are carried on. The license expires on June 30 of each year, and there are no provisions for partial year license fee refunds if the license is voluntarily surrendered. If a license is issued between January 1 and June 30 of any year, the license fee is one-half of the normal fee.

83.1(2) *Subjobber's license.* Every person, other than persons licensed as tobacco distributors, operating as a tobacco subjobber, as defined in Iowa Code section 453A.42, must obtain a tobacco subjobber's license. A tobacco subjobber is any person, other than a manufacturer or distributor, who purchases tobacco products from a distributor and sells them to persons other than the ultimate consumer. The license is issued by the department at an annual cost of \$10, unless the subjobber possesses any valid cigarette permit, in which case, the license shall be issued without cost. A single subjobber's license shall be sufficient for the subjobber's entire activities within the state, that is, it is not issued for each place of business. The license expires annually on June 30 of each year, and there are no provisions for partial year license fee refunds if the license is voluntarily surrendered. If a license is issued between January 1 and June 30 of any year, the license fee is one-half of the normal fee.

This rule is intended to implement Iowa Code section 453A.44.